

1228.307-1

(2) When the cost of hull insurance does not exceed 10 percent of the contract rate; or

(3) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

(c) The contracting officer must insert the clause at (TAR) 48 CFR 1252.228-71, Fair Market Value of Aircraft, when fair market value of the aircraft can be determined.

(d) 49 U.S.C. 44112, as amended, provides that an aircraft lessor under a lease of 30 days or more is not liable for injury or death of persons, or damage or loss of property, unless the aircraft is in the actual possession or control of the lessor and the damage occurs because of

(1) The aircraft, engine or propeller, or

(2) The flight of, or an object falling from, the aircraft, engine, or propeller. On short-term or intermittent-use leases, however, the owner may be liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain insurance covering this liability during the term of such lease. Such insurance can, often for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the Risks and Indemnities clause at (TAR) 48 CFR 1252.228-72 prescribed in paragraph (d)(1) of this section shall be used.

(1) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.228-72, Risk and Indemnities, in any contract for out-service flight training or for the lease of aircraft when the Government will have exclusive use of the aircraft for a period of less than thirty days.

(2) Any contract for out-service flight training shall include a clause in the contract schedule stating substantially that the contractor's personnel shall at all times during the course of the training be in command of the aircraft and that at no time must other personnel be permitted to take command of the aircraft.

1228.307-1 Group insurance plans.

(a) *Prior approval requirements.* The contracting officer shall instruct the

48 CFR Ch. 12 (10-1-05 Edition)

contractor on a contract-by-contract basis on proposed purchases of group insurance plans. Legal advice should be sought where necessary on the advantages to the Government.

1228.311-1 Contract clause.

The contracting officer shall insert the clause at (FAR) 48 CFR 52.228-7, Insurance Liability to Third Persons, as prescribed in FAR 28.311-1 unless it is waived by an official one level above the contracting officer.

PART 1231—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1231.2—Contracts With Commercial Organizations

Sec.

1231.205 Selected costs.

1231.205-32 Precontract costs.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418b; (FAR) 48 CFR 1.3.

SOURCE: 70 FR 6507, Feb. 7, 2005, unless otherwise noted.

Subpart 1231.2—Contracts With Commercial Organizations

1231.205 Selected costs.

1231.205-32 Precontract costs.

(a) The decision to incur precontract costs is that of the contractor. No DOT employee can authorize, demand, or require a contractor to incur precontract costs. The contracting officer may advise the prospective contractor that any costs incurred before contract award are at the contractor's sole risk and that if negotiations fail to result in a binding contract, payment of these costs may not be made by the Government.

(b) When the contracting officer determines that incurring precontract costs was necessary to meet the proposed contract delivery schedule of a cost-reimbursement contract, the clause at (TAR) 48 CFR 1252.231-70, Date of Incurrence of Costs, may be inserted in the resultant contract.